



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOE SIMON-WHELAN, Individually And On
Behalf Of All Others Similarly Situated,

Plaintiff,

- against -

THE ANDY WARHOL FOUNDATION FOR
THE VISUAL ARTS, INC., THE ESTATE OF
ANDY WARHOL, VINCENT FREMONT,
Individually and Successor Executor for the
Estate of Andy Warhol, VINCENT FREMONT
ENTERPRISES, THE ANDY WARHOL ART
AUTHENTICATION BOARD, INC., JOHN
DOES 1-20, JANE DOES 1-10, and RICHARD
DOES 1-10,

Defendants.

Case No. 07 CV 6423

Justice Assigned:
Hon. Laura T. Swain

STIPULATION AND ORDER

WHEREAS, on September 14, 2007, Defendants The Andy Warhol Foundation for the Visual Arts, Inc., Vincent Fremont, Vincent Fremont Enterprises, and The Andy Warhol Art Authentication Board, Inc. ("Defendants") filed a Motion to Dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6); and

WHEREAS counsel for Plaintiff Joe Simon-Whelan, individually and putatively on behalf of all others similarly situated ("Plaintiff"), has advised counsel for Defendants that Plaintiff intends to file an amended complaint as of right pursuant to Fed. R. Civ. P. 15(a);

WHEREAS, by endorsed letters dated September 11, 2007, this Court has permitted the parties to file briefs of up to 45 pages in connection with Defendants' motion to dismiss the Complaint;

WHEREAS, by Initial Conference Order dated July 20, 2007, this Court scheduled a pre-trial conference for October 12, 2007 and directed the parties to preliminarily confer about various issues at least 21 days prior to the pre-trial conference;

WHEREAS, the parties agree that the pre-trial conference should be adjourned until after Defendants respond to the amended complaint, so that the parties can meaningfully confer in advance of the conference;

IT IS HEREBY STIPULATED AND AGREED by the undersigned counsel as follows:

1. Plaintiff shall file an amended complaint on or before October 19, 2007;
2. Defendants' pending Motion to Dismiss is withdrawn without prejudice;
3. Defendants shall respond to the Amended Class Action Complaint by November 30, 2007; if Defendants file a motion to dismiss the Amended Class Action Complaint, the accompanying memorandum of law shall not exceed 45 pages;
4. If Defendants file a motion to dismiss the Amended Class Action Complaint, Plaintiff shall file an opposition brief to Defendants' motion to dismiss, which shall not exceed 45 pages, by January 10, 2008;
5. If Defendants file a motion to dismiss the Amended Class Action Complaint, Defendants shall file their reply brief to Plaintiff's opposition, which shall not exceed 30 pages, by February 7, 2008.

6. The pre-trial conference currently scheduled for October 12, 2007, shall be adjourned until after January 7, 2008, on a date that is convenient for the Court.

Dated: New York, New York
September 21, 2007

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--and--

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Attorneys for Defendants The Andy Warhol Foundation for the Visual Arts, Inc., Vincent Fremont, Vincent Fremont Enterprises, and The Andy Warhol Art Authentication Board, Inc.

*The pretrial conference is adjourned to January 18, 2008
at 10:00AM.*

SO ORDERED:

9/24/2007
U.S.D.J.